



DOCKET NO. 7732-020-27 DIV

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

#11  
BD  
12-12-02

IN RE APPLICATION OF: MICHAEL CLIMO, ET AL. ART UNIT: 1631

SERIAL NO.: 09/665,077

EXAMINER: Michael L. Borin

FILING DATE: SEPTEMBER 19, 2000

FOR: COMPOSITIONS AND METHODS FOR TREATMENT OF  
STAPHYLOCOCCAL INFECTION WHILE SUPPRESSING  
FORMATION OF ANTIBIOTIC-RESISTANT STRAINS

**AMENDMENT**

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, DC 20231

SIR:

**RECEIVED**  
DEC 11 2002  
TECH CENTER 1600/2900

**REMARKS**

Applicants wish to thank Examiner Borin for his kind consideration to the telephone request to withdraw the revised Restriction Requirement as it was presented in the Office Action mailed July 24, 2002. Applicants renew that request here. However, in the interests of progressing prosecution on the merits, Applicants respond to the Examiner's rejections. Upon indication of allowable subject matter, Applicants respectfully request withdrawal of the Restriction and rejoinder of the claims. The claims under consideration and the claims withdrawn from consideration contain significantly parallel elements. Allowability in one set of claims will demonstrate allowability in the remaining claims. Hence, withdrawal of the restriction requirement and rejoinder of the claims is appropriate.

**Status of the Application**

Claims 3-11 and 18-28 are pending in the application. Claims 3-11 and 23-28 are withdrawn from consideration as purportedly drawn to a non-elected invention. The Office Action rejects claims 18-22 under 35 U.S.C. § 112, second paragraph, as indefinite. The Office Action rejects claims 18-22 under 35 U.S.C. § 102(b) as anticipated by one (1)



**PIPER RUDNICK LLP**  
1200 NINETEENTH STREET, NW  
WASHINGTON, DC 20036-2412  
TELEPHONE: 202-861-3900  
FACSIMILE: 202-223-2085

DOCKET NO.: 7732-020-27 DIV

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

**RECEIVED**

DEC 11 2002

TECH CENTER 1600/2900

Re: Serial No.: 09/665,077  
Applicant(s): Michael CLIMO et al.  
Filing Date: September 19, 2000  
For: COMPOSITIONS AND METHODS FOR TREATMENT OF  
STAPHYLOCOCCAL INFECTION WHILE SUPPRESSING FORMATION  
OF ANTIBIOTIC-RESISTANT STRAINS  
Group Art Unit: 1631  
Examiner: Michael L. Borin

SIR:

Attached hereto for filing are the following papers:

**AMENDMENT**

Our check in the amount of \$ 0 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary extension of time to make the filing of the attached documents timely, please charge or credit the difference to Deposit Account No. 50-1442. Further, if these papers are not considered timely filed, then a request is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

PIPER RUDNICK LLP



Steven B. Kelber  
Attorney of Record  
Registration No.: 30,073

Patrick R. Delaney  
Registration No.: 45,338